

**AMENDMENTS TO THE CLAIMS**

**This listing of claims will replace all prior versions and listings of claims in the application:**

**LISTING OF CLAIMS:**

1. (currently amended): A positive active material for a secondary battery comprising  $\beta$ -FeOOH that contains at least one element selected from the group consisting of ~~B~~, P, S, Li, Na, K, ~~Mg, Al, Ca~~, Sc, Ti, V, Cr, Mn, ~~Co, Ni, Cu, Zn~~, Zr, Pb and Sn and that shows a diffraction peak of (110) plane of which half width is greater than  $0.3^\circ$  ( $2\theta$ ) when subjected to X-ray diffractometry with the  $\text{CuK}\alpha$  ray, wherein ~~said~~ the contained Li is not the element obtained by a method to insert lithium in the active material by a chemical method ~~intercalated by the electrochemical discharge reaction in the electrolyte.~~

2. (currently amended): A process for the preparation of a positive active material for a secondary battery according to Claim 1 which comprises a step of hydrolyzing an aqueous solution, in which an iron salt and a salt containing at least one element selected from the group consisting of ~~B~~, P, S, Li, Na, K, ~~Mg, Al, Ca~~, Sc, Ti, V, Cr, Mn, ~~Co, Ni, Cu, Zn~~, Zr, Pb and Sn are dissolved, at a temperature of from  $40^\circ\text{C}$  to  $100^\circ\text{C}$ .

3. (original): A process for the preparation of a positive active material for a secondary battery according to Claim 2, wherein said iron salt is ferric chloride, said vanadium salt is  $\text{VOSO}_4$ , and said aqueous solution contains  $\text{FeCl}_3$  and  $\text{VOSO}_4$  together dissolved therein at a molar ratio satisfying  $0 < (\text{VOSO}_4/\text{FeCl}_3) < 0.1$ .

4. (currently amended): A positive active material for a secondary battery comprising  $\beta$ -FeOOH according to claim 1 that has particles with an aspect ratio of not greater than 5 ~~and that shows a diffraction peak of (110) plane of which half width is greater than  $0.3^\circ$  (2 $\theta$ ) when subjected to X-ray diffractometry with the CuK $\alpha$  ray.~~

5. (currently amended): A positive active material for a secondary battery comprising  $\beta$ -FeOOH according to claim 1 that has particles with a mode diameter of not greater than 10  $\mu\text{m}$  ~~and that shows a diffraction peak of (110) plane of which half width is greater than  $0.3^\circ$  (2 $\theta$ ) when subjected to X-ray diffractometry with the CuK $\alpha$  ray.~~

6. (canceled).

7. (currently amended): A positive active material for a secondary battery according to Claim 4 or 5, wherein the amount of said at least one element selected from the group consisting of Li, Na, K, ~~Mg, Al, Ca~~, Sc, Ti, V, Cr, Mn, ~~Co, Ni, Cu, Zn~~, Zr, Pb and Sn is not smaller than 0.1 wt%.

8. (currently amended): A process for the preparation of a positive active material according to Claims 4 or 5, which comprises a step of hydrolyzing an aqueous solution, in which ferric chloride and a salt containing at least one element selected from the group consisting of Li, Na, K, ~~Mg, Al, Ca~~, Sc, Ti, V, Cr, Mn, ~~Co, Ni, Cu, Zn~~, Zr, Pb and Sn are dissolved, at a temperature of from 40°C to 100°C.

9. (previously presented): A non-aqueous electrolyte secondary battery comprising the following elements:

(1) a negative electrode comprising a negative active material capable of inserting and extracting lithium ion and/or metallic lithium;

(2) a positive electrode comprising a positive active material according to any one of Claims 1, 4, or 5; and

(3) an electrolyte in contact with said negative electrode and positive electrode.

10. (currently amended): A positive active material for a secondary battery according to claim 1, comprising  $\beta$ -FeOOH that contains at least one element selected from the group consisting of ~~B~~, P, S, Li, Na, K, ~~Mg, Al, Ca~~, Sc, Ti, V, Cr, Mn, ~~Co, Ni, Cu, Zn~~, Zr, Pb, and Sn and that shows a diffraction peak of (110) plane of which half width is greater than  $0.5^\circ$  ( $2\theta$ ) when subjected to X-ray diffractometry with the  $\text{CuK}\alpha$  ray.